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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,328	06/26/2003	Rudy Mazzocchi	MVA1001USC8	4210
9561 7590 08/21/2008 POPOVICH, WILES & O'CONNELL, PA 650 THIRD AVENUE SOUTH SUITE 600 MINNEAPOLIS, MN 55402				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
08/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/607,328

Applicant(s)

MAZZOCCHI ET AL.

Examiner

Vy Q. Bui

Art Unit

3773

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7.9 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7.9 and 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5-7, 9, 11-13, 15-16, 18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawskin et al-4,790,812.

As to claims 5-7, 9, 11-13, 15-16, 18, 20-22, Hawskin-812 (Figs. 1-12) shows guidewire 26 of metal or stainless steel (col. 4, lines 30-31), filter 11 with filter mesh 31 and resilient and flexible (self-expanding) spring wires 28, removable sheath 29, treatment catheter 35/36 (col. 4, lines 37-51) and a method substantially as recited in the claims.

Notice that spring wires 28 are soldered or welded together at their ends (col. 4, lines 9-12) and to wire 26 of metal (Fig. 6). Inherently, spring wires 28 must also be made of a metal.

Further, when treatment catheter 35/36 is rotated to treat an embolization of a blood vessel, inherently catheter 35/36 must apply a centrifugal force to the embolization of the vessel and therefore must cause at least some degree of radial expanding of the vessel.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 14, 16-23 are rejected under 35 U.S.C. 103(a) as being obvious over Hawskin et al-4,790,812 in view of Simon-4,425,908.

As to claims 14, 16-23, Hawskin-'812 discloses substantially a device and a method of using the device as recited in the claims. Hawskin-'908 does not explicitly disclose filter 11 made of a metal comprising a nitinol. However, a nitinol is a well known super elastic material suitable to make a self-expanding filter. For example, Simon-'908 (col. 5, lines 48-50) discloses self-expanding nitinol filter 10 for a self-expanding deployment in a blood vessel when released from sheath/catheter 58 (Fig. 1-4 and 13, for example). In view of Simon-'908, it would have been obvious to one of ordinary skill in the art at the time of the invention to make Hawskin-'812 filter of a nitinol so that the filter will self-expand when released from sheath/catheter 29 (Hawskin-'812; Fig. 9-10, for example) as recited in the claims.

Response to Arguments

Applicant's arguments with respect to the rejected claims in the previous office action have been considered but are not convincing.

As indicated in the above rejection, when treatment catheter 35/36 is rotated to treat an embolization of a blood vessel, inherently catheter 35/36 must apply a centrifugal force to the embolization of the vessel and therefore must cause at least some degree of radial expanding of the vessel.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/

Primary Examiner, Art Unit 3773